

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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AUG 16 1999

In the Matter of:

Petition for Rulemaking to Amend
Eligibility Requirements in Part 78
Regarding 12 GHz Cable Television
Relay Service

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FEDERAL COMMUNICATIONS COMMISSION
CS Docket No. 98-257
OFFICE OF THE SECRETARY

RM-9257

To: The Commission

COMMENTS

TIME WARNER CABLE

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SUMMARY

OpTel, Inc. ("OpTel"), a SMATV or private cable operator ("PCO"), has requested that the Commission permit PCOs to use frequencies in the 12.7-13.2 GHz Cable Television Relay Service ("CARS") band. Time Warner Cable ("Time Warner"), a franchised cable operator in various communities across the United States, believes that it would be inappropriate to grant OpTel's request.

OpTel and other PCOs that have commented thus far, including RCN Corporation ("RCN"), argue that they should be given competitive parity with cable operators. However, they only seek parity in terms of privileges; they do not seek to be subject to any of the numerous costly obligations that cable operators face. These include a local franchise requirement; franchise fees up to five percent of gross subscriber revenues; leased access; must-carry; and basic rate regulation, just to name a few. This is especially ironic where, just ten days ago, RCN filed comments in the Commission's annual video competition inquiry boasting of its rapid growth due to its ability to cherry pick selected multiple dwelling unit ("MDU") buildings in high density cities, a luxury not afforded to cable operators. Clearly, PCOs do not need additional regulatory advantages from the Commission to compete with cable, and they certainly should not receive any such favors without any obligations.

Furthermore, cable operators already share the CARS band with other users, including Multipoint Distribution Service ("MDS") licensees, conditional licensees, and lease holders; Instructional Television Fixed Service ("ITFS") licensees, permittees and applicants; and Broadcast Auxiliary Stations. The Commission has raised the concern that expansion of CARS band eligibility could interfere with existing users. Therefore, OpTel, RCN and other proponents of such expansion bear the burden to prove that such interference would not occur.

Thus far, they have failed to do so, and have failed to demonstrate that their use of 18 GHz and 23 GHz Operational Fixed Service ("OFS") frequencies is inadequate to meet their needs.

Any use of 12 GHz band frequencies by PCOs to deliver television broadcast signals should be accompanied by an obligation to carry local television broadcast signals. While full must-carry obligations applicable to cable operators would be appropriate, at minimum, PCOs should have an "if carry one, must carry all" requirement equivalent to the requirement both houses of Congress have decided to impose on another of cable's unfranchised competitors, the direct broadcast satellite ("DBS") industry. The very competitive parity that the PCOs argue for would be destroyed if cable and DBS operators have must-carry obligations, but not PCOs.

OpTel and other PCOs also have the burden to demonstrate the need for their requested relief. Thus far, they have failed to do so. They argue that 18 GHz frequencies limit the distance their signals can travel more than 12 GHz band frequencies. However, they supply no technical data to support this claim. According to the NPRM, the effective range difference between the two bands is very small. Likewise, RCN has failed to demonstrate that its claimed problems using 18 GHz frequencies in New York City are not attributable to other factors, such as interference from surrounding buildings that are taller than RCN's headend.

The PCOs also claim that several Commission rulemakings will hinder their usage of existing frequencies. However, one such rulemaking, regarding the Digital Electronic Messaging Service, impacts only two cities. It would be improper for PCOs to use this limited impact to bootstrap a nationwide spectrum giveaway. Another rulemaking, regarding reallocation of the 18 GHz band, is still underway. It would be premature to give spectrum in the 12 GHz band to PCOs before such rulemaking is finalized.

Furthermore, the PCOs have failed to demonstrate that using CARS band frequencies would be cost effective. They claim that, without the CARS band, they would need to construct additional headends or incur additional costs as they expand. However, PCOs again supply no data to support their claims. Any business, including cable, logically faces increased costs as it expands. This does not justify special favors from the Commission. At minimum, therefore, PCOs who desire to use 12 GHz band frequencies must provide a detailed cost showing as to why CARS is necessary rather than, for example, fiber optic cable or television receive-only facilities used in conjunction with additional headend facilities.

Moreover, if the Commission permits PCOs to utilize CARS band frequencies, they should have a minimum path length requirement of 10 miles. According to the Commission, and even the PCOs worst case statements thus far, existing frequencies used by PCOs, such as the 18 GHz band, are fully effective for distances of 10 miles or less.

Finally, should the Commission decide to make the 12 GHz band available to PCOs, such use should be secondary to cable system usage. The Commission has recognized that the CARS band was intended primarily for cable operators. The Commission also acknowledges that cable operators are generally required by their franchises to serve an entire community, and that conflicts could arise where a PCO has a license to cherry pick part of the community that the cable operator is required to serve. The best way to avoid this disservice, as well as avoiding auctioning of spectrum, is to have PCO usage secondary to cable system usage. This would be no different than the Commission's broadcast rules requiring that low power television stations be licensed on a secondary basis to full power stations. Moreover, such secondary usage by PCOs should not even be contemplated unless the 18 and 23 GHz bands are exhausted.

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of:)	
)	CS Docket No. 99-250
Petition for Rulemaking to Amend)	
Eligibility Requirements in Part 78)	RM-9257
Regarding 12 GHz Cable Television)	
Relay Service)	

To: The Commission

COMMENTS

Time Warner Cable ("Time Warner"), a division of Time Warner Entertainment Company, L.P., by its attorneys, hereby submits these Comments in response to the Commission's Notice of Proposed Rulemaking^{1/} in the above-captioned proceeding. As a franchised cable television system operator in various communities throughout the United States, Time Warner is clearly an interested party to this proceeding. Time Warner respectfully requests that the Commission deny the petition of OpTel, Inc. ("OpTel") to amend the Commission's rules to allow private cable operators ("PCOs" or "SMATV" [Satellite

^{1/}Notice of Proposed Rulemaking, CS Docket No. 99-250, FCC 99-166 (rel. July 14, 1999) ("NPRM"). On the Commission's own motion, the NPRM also seeks comment on expanding the eligibility for the CARS band to other multichannel video programming distributors ("MVPDs"). NPRM at ¶ 15. However, in the past the Commission has opened the CARS band to other users on a service by service basis. See, e.g., Report and Order, Gen. Docket Nos. 90-54 and 80-113, 5 FCC Rcd 6410 (1990). Here, since PCOs are the only service providers who requested use of CARS band frequencies, this proceeding should be limited to the specific request pending before the Commission.

Master Antenna Television] operators) to use the frequencies in the 12 GHz Cable Television Relay Service ("CARS") band for the delivery of video programming on a primary basis.^{2/}

BACKGROUND

This proceeding arises from OpTel's Petition. Several comments and supplemental comments were filed in support of OpTel's Petition. In addition, OpTel filed a separate petition requesting that the Commission waive Section 101.603 of its rules to permit OpTel to transmit video entertainment material using the 11 GHz band. The Commission denied that request.^{3/}

ARGUMENT

I. PCOs ARE NOT ENTITLED TO EQUIVALENT ACCESS TO CARS FREQUENCIES ABSENT EQUIVALENT PUBLIC INTEREST RESPONSIBILITIES.

A. PCOs Are Exempt from Various Public Interest Responsibilities and Regulatory Obligations Applicable to Franchised Cable Operators.

As the NPRM explains, "PCOs do not use hard-wired crossings of public rights-of-way, and, therefore, are not considered 'cable systems.'"^{4/} Private cable or SMATV systems are defined by way of an exemption to the Communications Act's definition of "cable system." This exemption, set forth at Section 602(7)(B), provides that "a facility that serves subscribers

^{2/}Petition for Rulemaking of OpTel, Inc., filed April 1, 1998 ("OpTel Petition.")

^{3/}Petition for Waiver of Section 101.603 of the Commission's Rules, Order, DA 99-406 (WTB, rel. March 10, 1999).

^{4/}NPRM at ¶ 1, *citing* 47 U.S.C. § 522(7)(B).

without using any public right-of-way" is not a cable system.^{5/} It is thus a narrow exemption.

As the Commission has stated, "SMATV systems are MVPDs that primarily serve MDUs."^{6/}

Furthermore,

the distinction between a SMATV system and a cable system is based on the limited manner in which a SMATV system provides its services. When the service is no longer so limited, the SMATV system ceases to be eligible for the statutory exception set forth in Section 602(7)(B) and becomes a cable system.^{7/}

From the foregoing, it is evident that one of the primary reasons that the Commission and Congress have traditionally exempted SMATVs/PCOs from the "cable system" definition, and the attendant regulatory obligations, is that SMATVs/PCOs historically had a very limited geographic reach, rarely serving more than an isolated cluster of commonly owned multiple dwelling unit ("MDU") buildings, and almost never serving MDUs on separate sides of public rights-of-way. Given such de minimis impact, previous exemption of SMATV/PCO operations from the definition of cable systems was perhaps justified. But as SMATV/PCO operations continue to grow and thrive, and particularly as they develop technologies allowing

^{5/}47 U.S.C. § 522(7)(B). As enacted in the 1984 Act, the definition of a cable system excluded "a facility that serves only subscribers in 1 or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way. . . ." 47 U.S.C. § 522(7)(B), amended by Telecommunications Act of 1996 Sec. 301(a)(2), 47 U.S.C. § 522(7)(B). The 1996 Act amended this exclusion retaining only the requirement that such systems not use "any public right-of-way."

^{6/}Fourth Annual Report, Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, CS Docket No. 97-141, 13 FCC Rcd 1034, 1085 (1998) ("Fourth Annual Report").

^{7/}Memorandum Opinion and Order on Reconsideration of the First Report and Order, MM Docket No. 92-264, 10 FCC Rcd 4654, ¶ 12 (1995) (footnote omitted).

dramatically expanded geographic scope, such as 18 GHz or possibly even CARS microwave, the entire notion of exempting PCOs from the definition of cable systems should be revisited.

One of OpTel's principal arguments in requesting use of the CARS band is that PCOs should be given competitive parity with cable. For example, "OpTel requests that the Commission amend its rules and policies as set forth herein to allow private cable operators to use the 12 GHz band, which already is open to use by OpTel's franchises cable competitors, to deliver video programming material to its subscribers."^{8/} However, while OpTel desires parity with cable in terms of privileges, it does not seek parity in terms of cable's costly regulatory obligations. As the NPRM recognizes, PCOs are not subject to numerous requirements imposed on franchised cable systems pursuant to Title VI of the Communications Act.^{9/} These requirements, which entail massive economic and administrative costs, include:

- the requirement to obtain a local cable television franchise;^{10/}
- universal service requirements contained in most cable franchises;
- franchise fees of up to 5% of gross subscriber revenues;^{11/}
- leased access;^{12/}
- must-carry;^{13/}

^{8/}OpTel Petition at 3. See also id. at 6-7.

^{9/}NPRM at ¶ 1.

^{10/}47 U.S.C. § 541(b)(1).

^{11/}47 U.S.C. § 542.

^{12/}47 U.S.C. § 532.

^{13/}47 U.S.C. § 534-535.

- program access;^{14/}
- PEG access;^{15/}
- channel occupancy limits;^{16/}
- rate regulation;^{17/}
- sports blackout;^{18/}
- network nonduplication;^{19/} and
- syndicated exclusivity.^{20/}

OpTel and its supporters argue for special advantages because, they claim, they are nascent competitors attempting to gain a firmer foothold against cable.^{21/} However, just because PCOs are smaller and less established than the cable industry does not mean that they

^{14/}47 U.S.C. § 536.

^{15/}47 U.S.C. § 531. Such access must be free of charge, requiring cable operators to forego revenues that could be produced by commercial service. 47 U.S.C. § 531(b). Additionally, most franchises require cable operators to provide funding to support the creation of local programming to air on PEG access channels. Typical PEG programming obligations are in-kind contributions such as the provision of cameras, studio equipment, mobile vans, modulators, video tape recorders, fully equipped studio facilities, or other production equipment, and cash payments to local authorities or access organizations to produce PEG programming.

^{16/}47 U.S.C. § 533(f)(1)(B); 47 C.F.R. § 76.504(a).

^{17/}47 U.S.C. § 543.

^{18/}47 C.F.R. § 76.67.

^{19/}47 C.F.R. § 76.92.

^{20/}47 C.F.R. § 76.151.

^{21/}See OpTel Petition at 3-4; RCN Comments at 6.

should be immune from all the obligations that are imposed on cable operators, especially where their service is no longer limited in geographic reach and where PCOs now desire spectrum that is reserved for cable operators. One need only examine the Commission's open video service ("OVS"), which is not protected from regulation in the same fashion as PCOs despite its ability to provide competition to franchised cable.^{22/} Even though the OVS industry is less than one tenth the size of the SMATV industry,^{23/} Congress has subjected OVS operators and programmers to numerous Title VI provisions, including PEG access^{24/} and payments to localities in lieu of cable franchise fees, as well as relevant FCC cable television rules, including must-carry, sports blackout, network nonduplication and syndicated exclusivity obligations.^{25/} The Telecommunications Act of 1996^{26/} also subjects OVS operators to non-discrimination requirements regarding their programmer-customers, as well as channel

^{22/}See Implementation of Section 302 of the Telecommunications Act of 1996, Open Video Systems, Second Report and Order, 11 FCC Rcd 18223, 18227, 18241-42 (1996) ("OVS Second Report and Order") ("[t]he underlying premise of Section 653 is that open video system operators would be new entrants in established markets, competing directly with an incumbent cable operator") (footnote omitted).

^{23/}Fifth Annual Report, Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, CS Docket No. 98-102, 13 FCC Rcd 24284, 24290, 24341 (1988).

^{24/}47 U.S.C. § 573(c)(1)(B). In fact, where an OVS operator and a local franchising authority cannot agree upon the OVS operator's PEG access obligations, the OVS operator must "satisfy the same PEG access obligations as the local cable operator." OVS Second Report and Order at 18298-99.

^{25/}47 U.S.C. § 573(b)(1)(D).

^{26/}Pub. L. 104-104, 110 Stat. 56 (1996).

occupancy limits where channel capacity demand exceeds supply.^{27/} Obviously, Congress believes that, regardless of its current size, OVS' designation as a competitor to cable must be accompanied by a level of regulatory parity with cable. There is no reason why PCOs, in seeking to substantially expand the geographic reach of their service, should be treated differently, especially when they cite the very same parity argument to receive regulatory benefits.

In fact, only ten days ago, RCN filed comments in the Commission's annual assessment of the status of competition regarding the delivery of video programming. In its comments, RCN stated that it "is making excellent progress both as an open video system ("OVS") operator and as a traditional Title VI franchised cable operator in building its state-of-the-art broadband fiber plant, and is constantly adding to its subscriber base"^{28/} RCN's success is apparently due in part to the fact "that it has limited its entry to relatively densely populated regions in the Boston to Washington, D.C. corridor on the east coast, the San Francisco to San Diego corridor on the west coast, and recently to Phoenix, AZ."^{29/} In particular, as RCN states in its comments in support of OpTel in the instant proceeding, "RCN's wireless provision of video programming employs microwave distribution networks that operate in the 18 GHz band to deliver the programming from its central headend to

^{27/}47 U.S.C. §§ 573(b)(1)(A)-(B). Compare 47 U.S.C. § 548 (cable program access requirements).

^{28/}Initial Comments of RCN Corporation, CC Docket No. 99-230, Aug. 6, 1999 at 1 ("RCN Video Competition Comments").

^{29/}RCN Video Competition Comments at 3.

multiple distinct facilities located at individual [MDU] buildings."^{30/} As a result of RCN's ability to cherry pick selected MDU buildings in high density areas, a luxury that is not afforded to cable operators,

[i]n 1998, RCN's consolidated revenue increased 92% to \$245.1 million, compared with \$127.3 million in 1997. In the fourth quarter of 1998 alone, advanced fiber-optic net connections grew 48.9%, and on-net voice, data and video connections grew 48%, 69% and nearly 50%, respectively.^{31/}

RCN's own boasts about its success in competing for MDU subscribers completely negate any claims by RCN and OpTel in this proceeding that they are nascent competitors in MDUs and thus deserve special treatment from Commission. As RCN's comments in the video competition proceeding reveal, such competitors are thriving.

B. Cable Operators Already Share CARS Frequencies.

As the Commission states, "[w]e also seek comment on the possible drawbacks of expanding CARS eligibility, particularly with respect to issues of spectrum management and allocation."^{32/} As noted in the NPRM, in addition to cable operators, other users are eligible for CARS band frequencies, including:

- Multipoint Distribution Service ("MDS") licenses and conditional licenses;^{33/}

^{30/}RCN Comments at 2.

^{31/}RCN Video Competition Comments at 4.

^{32/}NPRM at ¶ 4.

^{33/}47 C.F.R. § 78.13(d).

- entities that hold executed lease agreements with MDS licenses and conditional licenses;^{34/}
- licensees, construction permittees, and applicants for channels in the Instructional Television Fixed Service ("ITFS") (provided they meet certain conditions),^{35/} and
- Broadcast Auxiliary Stations.^{36/}

Time Warner thus believes that expansion of CARS band eligibility to more users could indeed "interfere with existing users," a concern the Commission has raised,^{37/} and that proponents of such expansion bear the burden of proving that such interference would not occur. In particular, as set forth in greater detail in Sec. II.A., the fact that OpTel and its supporters have failed to demonstrate that their eligibility for 18 GHz and 23 GHz Operational Fixed Service ("OFS") frequencies is inadequate to meet their needs provides a wholly sufficient basis for denial of OpTel's Petition.

C. PCOs Should Not be Permitted to Use CARS Frequencies to Transport Broadcast Signals Absent Must-Carry Requirements.

Since the PCOs believe that cable operators and their competitors should be treated with parity, PCOs who use CARS frequencies to carry television broadcast signals should have must-carry requirements equivalent to those imposed on cable operators. While full must-carry obligations for PCOs would certainly be justified, at a very minimum PCOs should have

^{34/}47 C.F.R. § 78.13(d).

^{35/}47 C.F.R. § 78.13(d), (e).

^{36/}47 C.F.R. § 76.400 et seq.

^{37/}NPRM at ¶ 5.

an "if carry one, must carry all" obligation with respect to local television broadcast stations. This would be very similar to the proposals currently pending in Congress regarding DBS operators who, like PCOs, directly compete with cable operators. Specifically, the U.S. House of Representatives and the U.S. Senate have each passed legislation containing the "if carry one, must carry all" requirement for DBS operators.^{38/} The legislation is currently pending before a joint House/Senate conference committee.

As the House and Senate recognized in passing this legislation, the benefit of a DBS compulsory license to carry television broadcast signals should be accompanied by the obligation to carry all qualified local television broadcast signals. According to the Report accompanying H.R. 851 (one of the two House bills that were eventually reconciled to be passed as H.R. 1554), "because local-into-local will enable satellite television service to serve as a more complete substitute to cable service, then satellite and cable service providers should operate on similar regulatory footing."^{39/} Similarly, PCOs who carry any television broadcast signals over CARS band frequencies to compete with cable operators should be required to do the same.

^{38/}H.R. 1554, 106th Cong. (1999).

^{39/}H.R. Rep. No. 106-79, 106th Cong., 1st Sess. 15 (1999). See also H.R. Rep. No. 106-86, 106th Cong., 1st Sess. 12 ("[t]hese amendments create parity between the satellite and cable industries in the provision of television broadcast stations.")

II. OPTEL HAS FAILED TO ESTABLISH A NEED FOR THE REQUESTED RELIEF

A. The Effective Range Difference Between 18 GHz and CARS is Negligible.

OpTel claims that "18 GHz transmissions have an effective range of approximately 5 to 8 miles."^{40/} However, neither OpTel nor RCN proves this contention with any engineering data. Indeed, the Commission states that, in its experience, CARS stations in the 12 GHz band can transmit programming 11-15 miles, while the 18 GHz band is effective for 8-11 miles. This is hardly a significant mileage difference warranting disruption to the established CARS frequency allocation scheme.^{41/} Therefore, Time Warner believes that the use of the 18 GHz and 23 GHz bands for PCOs and other MVPDs is adequate.

Furthermore, with respect to RCN's operations in New York City, other factors having nothing to do with the frequencies being used, such as interference from tall buildings, affect RCN's ability to transmit signals from its headend. That headend, located in the Normandie Court apartment complex, which is approximately 30 stories high, utilizes a transmitting antenna that is 375 feet above ground level.^{42/} However, there are many buildings in the area that are considerably taller, which could pose interference problems for RCN regardless of

^{40/}OpTel Petition at 2. RCN claims that in one of its service areas, use of the 18 GHz band is effective for only approximately an 8 mile range. RCN Supplemental Comments at 2-3. RCN does not provide any more information, however, and presumably this situation is an anomaly.

^{41/}See NPRM at ¶ 18 "we do not believe, based upon our experience, that the range differences are as significant as OpTel and RCN suggest" (footnote omitted).

^{42/}See Exhibit A (Application of Liberty Cable Co., Inc., WNTM385, filed May 24, 1995).

which line-of-sight frequencies it uses. Similarly, in order for RCN to transmit to its Riverdale receive site in the Bronx, it needs to transmit past Washington Heights in upper Manhattan, which, as its name reveals, is at a significantly higher elevation than Normandie Court. It is thus impossible to achieve a direct line-of-sight transmission from Normandie Court to Riverdale, regardless of the distance involved. Therefore, whether CARS band or 18 GHz band frequencies are used is irrelevant. RCN has not made the case that any alleged difficulties in transmitting its signals are solely the result of using 18 GHz band frequencies instead of CARS band frequencies, rather than other problems, such as building heights, that are obviously acute in New York City.

B. It Would be Premature to Amend the Commission's Rules While Interrelated Proceedings are Pending.

In addition, as the Commission states in the NPRM, "[w]e also note that Optel's petition is interrelated with other ongoing proceedings and that decisions to be made in those proceedings might affect PCOs' and MVPDs' use of the 12 GHz CARS band."^{43/} These proceedings include the completed Digital Electronic Messaging Services ("DEMS") relocation proceeding,^{44/} the ongoing 18 GHz reallocation proceeding,^{45/} and the Commission's proposal

^{43/}NPRM at ¶ 4 (footnote omitted).

^{44/}Order, In the Matter of Amendment of the Commission's Rules to Relocate the Digital Electronic Message Service from the 18 GHz Band to the 24 GHz Band for Fixed Service, ET Docket No. 97-99, 13 FCC Rcd 3581 (1998).

^{45/}Notice of Proposed Rulemaking, Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite Service Use, FCC 98-235 (IB, rel. Sept. 18, 1998).

to all non-geostationary orbit ("NGSO") fixed satellite systems ("FSS") to operate in the U.S. in the 10.7-12.7 GHz band for NGSO downlinks and in the 12.75-13.25 GHz, 13.80-14.50 GHz bands for NGSO uplinks.^{46/} OpTel stated in its Petition that the Commission's DEMS decision has severely restricted "the ability of private cable operators to compete in the Denver and Washington, D.C., markets,"^{47/} and that the result of the ongoing 18 GHz reallocation proceeding may "negatively impact terrestrial microwave services, including those of private cable operators."^{48/} However, the impact of the DEMS proceeding is too geographically isolated to warrant OpTel's efforts to bootstrap a nationwide spectrum giveaway for PCOs.^{49/} Any proven negative impact of this proceeding on OpTel could be better handled on a case-by-case basis, such as a waiver or petition for special relief limited to the impacted systems. In the case of the ongoing 18 GHz reallocation proceeding, since the Commission has not yet decided how to allocate the frequencies in question, OpTel's concerns are premature and purely speculative. Furthermore, OpTel has not demonstrated whether "other alternatives, such as 23 GHz, or use of fiber optic cable, can reasonably provide necessary capacity."^{50/}

^{46/}Notice of Proposed Rulemaking, FCC 98-310, ET Docket No. 98-206, RM-9147, RM-9245 (rel. Nov. 24, 1998).

^{47/}OpTel Petition at 5.

^{48/}OpTel Petition at 6.

^{49/}As OpTel's own Consolidated Reply states, "[t]he 18 GHz band still is appropriate and indeed critical, given the base of established networks using 18 GHz microwave, for private cable operations in many areas, particularly in urban areas other than Denver and Washington, D.C." Consolidated Reply of OpTel, Inc., filed June 2, 1998, at 2 (footnote omitted).

^{50/}NPRM at ¶ 21.

Accordingly, the Commission should defer consideration of OpTel's request at least until the Commission resolves the pending 18 GHz reallocation proceeding.

C. The PCOs Have Not Demonstrated the Cost Effectiveness of Utilizing CARS Band Frequencies.

Pursuant to the Commission's rules, "[a]n application for a CARS studio to headend link or LDS station license shall contain a statement that the applicant has investigated the possibility of using cable rather than microwave and the reasons why it was decided to use microwave rather than cable."^{51/} In seeking competitive parity with cable operators, OpTel and the other PCOs have failed to establish that CARS would be more cost effective than constructing additional headends with simple television receive-only ("TVRO") facilities. This is especially significant where RCN claims that "use of the 550 MHZ of spectrum available in the 12 GHz band would allow RCN to expand from 72 to 82 channels of programming."^{52/} In this regard, Time Warner respectfully submits that the Commission's solicitation of comments at paragraph 14 of the NPRM regarding "the costs for PCOs associated with the use of multiple frequency bands that they could use under existing rules"^{53/} focuses on the wrong issue. The question should be whether construction of 82 channels of CARS is less expensive than a separate TVRO facility at the location to be served. If not, then it is a waste of spectrum to use CARS. As the Commission has stated,

^{51/}47 C.F.R. § 78.15(b).

^{52/}RCN Comments at 3.

^{53/}NPRM at ¶ 14.

Additionally, the mandate of Section 301 that we provide for the use of channels authorizes the Commission to allocate the Nation's scarce spectrum resources. In attempting to satisfy that mandate, the public's need for new or additional services must be balanced against the limited spectrum currently available. In sum, we must strive for economy in the use of spectrum.^{54/}

Not only have the PCOs failed to show that utilizing the 12 GHz band is cost effective, they have not even demonstrated that their own operating costs warrant a CARS spectrum giveaway. In this regard, one of OpTel's principal alleged concerns is that

. . . as OpTel seeks to compete on a broader scale and its private cable systems within a city become more dispersed, OpTel is required either to install relay sites or construct new headends to serve the outlying systems. Naturally, the addition of these facilities raises the total cost of providing service to subscribers and thereby limits OpTel's ability to compete.^{55/}

Likewise, RCN states that "[a]s a result, RCN is faced with the Hobson's Choice between installing additional central headends in order to offer service to customers in New York City's other boroughs or simply abandoning altogether its plans to offer service to consumers in these additional neighborhoods."^{56/}

Unsubstantiated allegations regarding increased costs cannot justify the relief requested by OpTel. Indeed, cable operators do not have the luxury of receiving regulatory favors from the Commission each time cable's costs increase. On the contrary, when a cable operator argues, for example, that carriage of a particular television broadcast station pursuant to the Commission's must-carry rules would entail significantly higher costs, the Commission

^{54/}Memorandum Opinion and Order, BC Docket No. 82-536, 55 RR 2d 1607, ¶ 22 (1984) (footnote omitted).

^{55/}OpTel Petition at 2-3.

^{56/}RCN Comments at 3-4.

requires that the cable operator request a waiver of the must-carry rules. If OpTel and RCN are seeking regulatory parity with cable operators, they should similarly be required to submit a detailed justification, including concrete evidence regarding any alleged increased costs.

As the courts have held regarding waivers of the Commission's rules, "[a]n applicant for waiver faces a high hurdle even at the starting gate."^{57/} Furthermore, as the Commission has stated regarding the costs to cable systems of must-carry compliance,

to obtain such a waiver, a petitioner must first submit detailed evidence demonstrating the compliance costs. The petitioner must then demonstrate how much such costs would substantially impact the cable system."^{58/}

Since PCOs such as OpTel and RCN claim to be seeking competitive parity with cable, they should be held to the same standard in requesting that the Commission amend its rules. Any business logically faces increased costs as it expands. This in no way justifies preferred treatment from a regulatory agency. By making bare claims, unaccompanied by any data, that their costs would increase as they increase their SMATV coverage, OpTel and RCN clearly have not met this standard. PCOs should be required to provide detailed cost studies, including the alleged substantial impact of such costs on their operations, to support their claims.

Finally, in response to the NPRM's question whether PCOs should "be required to demonstrate that they need to transmit over more than 10 miles before they are eligible for a

^{57/} Wait Radio v. FCC, 418 F.2d 1153, 1157 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972); Northeast Cellular Tel. Co. v. FCC, 897 F.2d 1164 (D.C. Cir. 1990).

^{58/} Greater Dayton Public Television, 10 FCC Rcd 1048, 1049 (Cable Serv. Bur. 1995). The Commission rarely grants such waivers.

CARS license,"^{59/} Time Warner believes that PCOs should not be permitted to use 12 GHz frequencies for any path less than 10 miles. From a technical standpoint, PCOs do not need to use CARS frequencies for distances less than 10 miles, since RCN concedes that 18 GHz works fine for approximately 9 miles (up to 3 miles on the original "hop," plus two "hops" of up to 3 miles each)^{60/} and the Commission confirms that 18 GHz is effective for up to 11 miles.^{61/}

III. IF THE COMMISSION PERMITS PCOs TO USE CARS FREQUENCIES, SUCH USE SHOULD BE SECONDARY TO CABLE SYSTEM USAGE

If the Commission grants OpTel's request, the NPRM seeks comment on "whether, after becoming a CARS licensee, PCO systems or other MVPDs should be designated as co-primary users with incumbent cable system operators or as secondary users."^{62/} However, the NPRM expresses the goal that use of the CARS band by PCOs or other MVPDs not "unduly constrain future growth of incumbent cable services."^{63/} Thus, the Commission recognizes that

^{59/}NPRM at ¶ 18.

^{60/}RCN Supplemental Comments at 2. RCN claims that the 18 GHz band is only effective for up to 8 miles from its central headend in New York City. However, RCN's own figures, indicating that 18 GHz is effective for up to 3 miles, plus two hops of up to 3 miles each, suggest a minimum 9 mile figure. Moreover, RCN cites only this New York City example, and provides no information on whether its systems in other areas provide greater coverage. It appears that RCN's example is a "worst case" scenario.

^{61/}NPRM at n.52.

^{62/}NPRM at ¶ 5 (footnote omitted).

^{63/}NPRM at ¶ 5.

cable systems are the intended primary users of CARS band frequencies. Indeed, the NPRM notes that

franchised cable systems that are currently eligible for CARS licenses generally are required to provide service to an entire community. In contrast, PCOs can select those areas and buildings where they wish to provide service and ignore less desirable areas or buildings.^{64/}

Accordingly, the Commission correctly identifies "the conflict that could arise where a franchised cable system may be unable to serve a part of a community which it is required to serve because a PCO already has the CARS license for those frequencies."^{65/} This could result in a regulatory dilemma before the Commission and thousands of local franchising authorities. The best way to avoid such a disservice to the public interest and to ensure that spectrum would continue to be available for the intended cable system primary users, is by requiring that any use of these frequencies by PCOs or other MVPDs would be secondary to cable system use.

This would be similar to the Commission's broadcast rules which provide that a low power television broadcast station is licensed on a secondary basis and is not protected against interference from a full power television broadcast station.^{66/} According to the Commission,

This means that a translator or low power station creating harmful interference to a full service station must cease operation if it is unable to change its channel or take other steps to correct the interference. Translators and low power

^{64/}NPRM at ¶ 16. As indicated in Sec. I.A., RCN admits that it has done just that.

^{65/}NPRM at ¶ 16.

^{66/}47 C.F.R. § 74.703.

stations also are secondary in the sense that they must give way to a full service station proposing a mutually exclusive use of a frequency. ^{67/}

Moreover, Time Warner believes that, as contemplated in the NPRM, PCOs and other MVPDs should "first have to exhaust their spectrum usage in the 18 GHz and 23 GHz frequency bands, as provided by Part 101 of the Commission's rules, before being eligible to use the 12 GHz CARS band,"^{68/} even as secondary users.^{69/}

As the NPRM notes, "if the Commission determines that opening the CARS band to PCOs and other MVPDs creates mutually exclusive applications, the CARS spectrum would be subject to auction."^{70/} However, Time Warner's proposal that any CARS spectrum used by PCOs and other MVPDs be secondary to cable operator use "would avoid mutual exclusivity and the auctioning of the CARS spectrum."^{71/} It would also avoid the inefficient use of the spectrum that would result from "permitting a PCO with a small number of subscribers to use a CARS station that could have been licensed, instead, to a cable system serving significantly

^{67/}Notice of Proposed Rulemaking, BC Docket No. 78-253, RM-1932, 82 FCC 2d 47, ¶ 22 (Oct. 17, 1980) ("LPTV Rulemaking").

^{68/}NPRM at ¶ 16.

^{69/}LPTV Rulemaking, 82 FCC 2d 47 at ¶ 22.

^{70/}NPRM at ¶ 24.

^{71/}NPRM at ¶ 24, citing 47 U.S.C. §309(j)(6)(E) ("[n]othing in this subsection, or in the use of competitive bidding, shall be construed to relieve the Commission of the obligation in the public interest to continue to use engineering solutions, negotiation, threshold qualifications, service regulations, and other means in order to avoid mutual exclusivity in application and licensing proceedings").

more subscribers."^{72/} The NPRM itself recognizes that "more efficient use of channels" in the CARS band is an important goal.^{73/} Furthermore, as the Commission has stated,

We believe that in areas where a majority of stations have already expended resources to make efficient use of the spectrum, we cannot allow a minority of licensees to ignore their obligation to conserve spectrum and to reduce interference.^{74/}

These considerations warrant, at most, secondary status for PCOs who use frequencies in the 12 GHz band.

^{72/}NPRM at ¶ 24.

^{73/}NPRM at ¶¶ 25-26.

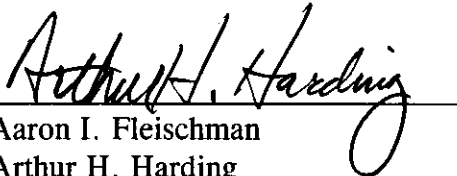
^{74/}Definition of Congested Areas in the Broadcast Auxiliary Services and the Cable Television Relay Service, Notice of Proposed Rulemaking, 5 FCC Rcd 6687, ¶ 9 (1990). See also 47 C.F.R. § 78.18(d) ("[f]or CARS fixed stations using FM transmission with an authorized bandwidth per channel of 25 MHZ, to conserve spectrum applicants are encouraged to use alternate A and B channels such that adjacent R.F. carriers are spaced 12.5 MHZ.")

CONCLUSION

WHEREFORE, Time Warner respectfully submits that OpTel's petition requesting that PCOs be permitted to use frequencies in the 12 GHz band should be denied.

Respectfully submitted,

TIME WARNER CABLE

By: 
Aaron I. Fleischman
Arthur H. Harding
Matthew D. Emmer

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(202) 939-7900

Its Attorneys

Dated: August 16, 1999

EXHIBIT A

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SUZANNE C. SPINK *
* NOT ADMITTED IN D.C.

May 24, 1995

Via Federal Express

Federal Communications Commission
Wireless Telecommunications Bureau
Microwave Branch
1270 Fairfield Road
Gettysburg, PA 17325-7245

Attn: Mr. Michael Hayden, Chief
Microwave Branch

Re: Liberty Cable Co., Inc.;
Amendment of Request for
Special Temporary Authority
FCC File No. 708779, FCC Call Sign WNTM385
1692 Third Ave., NY, NY (Normandie Court)

Dear Mr. Hayden:

Submitted herewith, on behalf of Liberty Cable Co., Inc. ("Liberty"), is an amendment to Liberty's request for Special Temporary Authority ("STA"), filed on May 4, 1995.

By this request, Liberty seeks to include the latest amendment to its application for regular authority filed on May 23, 1995. That application proposes the addition of one path to Liberty's modification application referenced above.

Kindly refer any questions regarding this matter to the undersigned.

Sincerely,



Michael J. Lehmkuhl
Attorney for
Liberty Cable Co., Inc.

Enclosure

cc: Mr. William Kellett (via Federal Express)
Arthur Harding, Esq. (counsel for Time Warner)

**Amendment to Request for
Special Temporary Authority
FCC File No. 708779
OFS Station WNTM385**

On May 4, 1995 Liberty Cable Co., Inc. ("Liberty") filed a request for special temporary authority pursuant to Section 94.43 of the Commission's Rules to operate an 18 Chz operational-fixed microwave service ("OFS") station at 1692 Third Avenue, New York, NY (Normandie Court).

On May 23, 1994, Liberty filed an amendment to add one path to the above referenced pending application. Liberty respectfully requests that this amendment be incorporated within and considered as part of Liberty's original request for STA. A copy of that amendment is included herewith as Attachment 1.

Liberty certifies that no party to the application is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, codified at 21 U.S.C. Section 862.

Please address all correspondence regarding this matter to Liberty's counsel, Michael J. Lehauehl Esq., Pepper & Corazzini, 1776 K Street, N.W., Suite 200, Washington, D.C. 20006 as well as the undersigned.

Respectfully submitted,



Behrooz Noorain
Director of Engineering

Date: _____

5/24/95

PEPPER & CORAZZINI

L. L. P.

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200 MONTGOMERY BUILDING
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SUZANNE C. SPINK *
* NOT ADMITTED IN D.C.

May 23, 1995

Via Federal Express

Federal Communications Commission
Private Microwave Branch
1270 Fairfield Road
Gettysburg, PA 17325-7245

Attn: Ms. Shirl Hawbacker

Re: Liberty Cable Co., Inc.;
Amendment of Modification Application,
FCC File No. 708779, FCC Call Sign WNTM385
1692 Third Avenue, NYC (Normandie Court)

Dear Ms. Hawbacker:

Submitted herewith, on behalf of Liberty Cable Co., Inc. ("Liberty") is an amendment on FCC Form 402 requesting the addition of three frequency paths to the modification application referenced above.

As this application seeks to add frequency paths at a location for which an application is currently pending, it is filed as an amendment pursuant to Public Notice, released September 2, 1994. Accordingly, no processing fee has been associated with this application.

Kindly refer any questions to the undersigned.

Sincerely,

Michael J. Lehmkuhl
Attorney for
Liberty Cable Co., Inc.

Enclosure

cc: Mr. Behrooz Nourain

MJL/kaw
c:\wp\1808\amend.5

FEDERAL COMMUNICATIONS COMMISSION
APPLICATION FOR STATION AUTHORIZATION IN THE
PRIVATE OPERATIONAL FIXED MICROWAVE RADIO SERVICE

FCC
USE
ONLY

Fee Amount Received
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SECTION I - IDENTIFICATION INFORMATION

1. NAME AND MAILING ADDRESS OF APPLICANT: (No., street, city, state, ZIP code) Liberty Cable Co., Inc. 215 East 95th Street, Suite 1A New York, NY 10128 Attn: Behrooz Nourain		2. APPLICANT'S PART 94 CALL SIGN: WNTM385	3. PAYMENT TYPE CODE		
<input type="checkbox"/> Check here if you are a current Part 94 licensee and your mailing address above is NOT the address on file		4. LICENSEE IDENTIFICATION NUMBER: (If previously assigned by the Commission) 005203-200			
5A. NAME OF PERSON TO CONTACT REGARDING APPLICATION: Michael J. Lehmkuhl, Esquire		5B. TELEPHONE NUMBER OF THE CONTACT: (202) 296-0600			
6. TYPE OF APPLICANT: <input type="checkbox"/> GOVERNMENTAL ENTITY <input type="checkbox"/> INDIVIDUAL <input checked="" type="checkbox"/> CORPORATION <input type="checkbox"/> ASSOCIATION <input type="checkbox"/> PARTNERSHIP	7. CLASS OF STATION: (enter code) FXO	8. ELIGIBILITY RULE SECTION: \$90.75 (a) (1)			
9A. PURPOSE OF APPLICATION <input type="checkbox"/> NEW STATION <input type="checkbox"/> MODIFICATION (SEE 9B & C) <input type="checkbox"/> MODIFICATION WITH RENEWAL <input type="checkbox"/> ASSIGNMENT OF AUTHORIZATION <input checked="" type="checkbox"/> OTHER (SPECIFY) Amendment File #708779					
9B. PATH ACTION OLD VALUE OF KEY ITEMS CHANGED					
A	<input checked="" type="checkbox"/> ADD <input type="checkbox"/> CHANGE <input type="checkbox"/> DELETE	20	30	31	32
B	<input type="checkbox"/> ADD <input type="checkbox"/> CHANGE <input type="checkbox"/> DELETE	20	30	31	32
C	<input type="checkbox"/> ADD <input type="checkbox"/> CHANGE <input type="checkbox"/> DELETE	20	30	31	32
D	<input type="checkbox"/> ADD <input type="checkbox"/> CHANGE <input type="checkbox"/> DELETE	20	30	31	32
E	<input type="checkbox"/> ADD <input type="checkbox"/> CHANGE <input type="checkbox"/> DELETE	20	30	31	32
9C. DESCRIBE ANY OTHER CHANGES:					
10. WILL THIS SYSTEM BE USED TO PROVIDE A COMMUNICATIONS PRIVATE CARRIER SERVICE TO OTHERS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					

SECTION II - ANTENNA INFORMATION

11. LOCATION OF TRANSMITTING ANTENNA STRUCTURE: A. NUMBER AND STREET: (or other specific indication) 1692 Third Avenue (Normandie Court)		B. CITY: New York
C. COUNTY: New York	D. STATE: NY	E. COORDINATES (Degrees, Minutes, Seconds): LATITUDE: 40° 47' 03.0"N LONGITUDE: 073° 56' 54.0" W
12A. IS THE ANTENNA TO BE MOUNTED ON AN EXISTING ANTENNA STRUCTURE? IF YES, ANSWER ITEMS 12B, C, D, AND E. <input type="checkbox"/> YES <input type="checkbox"/> NO		
12B. WILL THE ANTENNA INCREASE THE HEIGHT OF THE EXISTING STRUCTURE? IF YES, BY HOW MANY FEET? FEET N/A <input type="checkbox"/> YES <input type="checkbox"/> NO		
12C. NAME OF CURRENT LICENSEE USING STRUCTURE: N/A		ASB: FOR COMMISSION USE ONLY
12D. CURRENT LICENSEE'S RADIO SERVICE: N/A	12E. CURRENT LICENSEE'S CALL SIGN: N/A	
13. FOR ANTENNA TOWERS (OR POLES) MOUNTED ON THE GROUND: ENTER THE OVERALL HEIGHT ABOVE GROUND OF THE ENTIRE ANTENNA (OR POLE) INCLUDING ALL ANTENNAS, DISHES, LIGHTNING RODS, OBSTRUCTION LIGHTING, ETC. MOUNTED ON IT: → N/A FT		
14. FOR ANTENNAS OR ANTENNA TOWERS (OR POLES) MOUNTED ON A SUPPORTING STRUCTURE SUCH AS A BUILDING, WATER TOWER, SMOKE STACK, ETC.:		
14A. WHAT IS THE OVERALL HEIGHT ABOVE GROUND OF THIS SUPPORTING STRUCTURE? INCLUDE IN THIS HEIGHT ANY ELEVATOR SHAFTS, PENTHOUSES, LIGHTNING RODS, LIGHTS, ETC., WHICH ARE NOT PART OF THE ANTENNA TOWER (OR POLE): → 375.0 FT		
14B. HOW MANY FEET DOES THE ANTENNA TOWER (OR POLE) (INCLUDING ALL ANTENNAS, DISHES, LIGHTNING RODS, LIGHTS, ETC.) INCREASE THE HEIGHT OF THE SUPPORTING STRUCTURE IN ITEM 14A? IF THIS ANTENNA OR ANTENNA TOWER (OR POLE) DOES NOT INCREASE THE HEIGHT OF THE SUPPORTING STRUCTURE, ENTER ZERO (0): → 0 FT		
14C. WHAT IS THE OVERALL HEIGHT ABOVE GROUND OF THIS SUPPORTING STRUCTURE PLUS THE ANTENNA TOWER (OR POLE)? → 375.0 FT		
15. GIVE THE GROUND ELEVATION ABOVE MEAN SEA LEVEL AT THE ANTENNA SITE: → 30.0 FT		
16A. NAME OF NEAREST AIRCRAFT LANDING AREA: LaGuardia		16B. DIRECTION AND DISTANCE TO NEAREST RUNWAY: ENE 3.64 mi

17A. Has notice of construction been filed with the FAA on FAA Form 7460-1? If yes, answer items 17B, C, and D. ☐ YES ☒ NO

17B. Name Construction Notice was filed under: _____ 17C. FAA Regional Office (City): _____ 17D. Date Filed: _____

18. Would a Commission grant of your application be an action which may have a significant environmental effect as defined by Section 1.1307 of the Commission's Rules? See Instruction 18. If you answer yes, submit the statement as required by Sections 1.1308 and 1.1311. ☐ YES ☒ NO

19. If this is an existing station, enter the year it was first licensed: **1992**

SECTION III - TECHNICAL INFORMATION SEE ATTACHED

NAME OF ITEM	A	B	C	D	E
20. Frequency (MHz)					
21. Bandwidth (kHz) and Emission Type					
22. Type of Message Service					
23. Initial Baseband Channel Loading					
24. 10 Year Projected Baseband Channel Loading					

TRANSMITTER INFORMATION

NAME OF ITEM	A	B	C	D	E
25. Transmitter Operating Frequency Tolerance (%)					
26. Antenna Gain (dBi)					
27. Effective Isotropic Radiated Power (dBm)					
28. Beamwidth (Degrees)					
29. Height to Center of Final Radiating Element (Ft)					
30. Polarization					
31. Azimuth to Receive Site or Passive Repeater (PR) No. 1 (Degrees)					

RECEIVE SITE INFORMATION

NAME OF ITEM	A	B	C	D	E
32. Receiving Station's Call Sign					
33. Receiving Antenna Gain (dBi)					
34. Median Received Signal Level at Input to the Receiver (dBm)					
35. Latitude N (Degrees, Minutes, Seconds)					
36. Longitude W (Degrees, Minutes, Seconds)					
37. Ground Elevation AMSL (Ft)					
38. Height to Center of Receiving Antenna (Ft)					

PASSIVE REPEATER NO. 1 INFORMATION (IF ANY)

☐ If you have two or more passive repeaters on the same transmission path, check this box and answer items 39-46 on an additional FCC Form 402 or a separate sheet of paper for the second and successive passive repeaters.

NAME OF ITEM	A	B	C	D	E
39. Latitude N (Degrees, Minutes, Seconds)					
40. Longitude W (Degrees, Minutes, Seconds)					
41. Ground Elevation AMSL (Ft)					
42. Overall Height of PR Structure Above Ground (Ft)					
43. Dimensions (Ft X Ft) or Beamwidth (for dishes) (Degrees)					
44. Height Above Ground to Center of PR (Ft)					
45. Polarization					
46. Azimuth to Receive Site or Next PR (Degrees)					

SECTION IV - CERTIFICATION

- Applicant certifies that a copy of CFR 47, Part 94 has been retained for reference.
- Applicant waives any claim to the use of any particular frequency regardless of prior use by licensee or otherwise.
- Applicant will have unlimited access to the radio equipment and will control access and exclude unauthorized persons.
- Neither applicant nor any member thereof is a foreign government or representative thereof.
- Applicant will utilize type accepted radio equipment and antenna of correct specifications.
- Applicant certifies that all statements made in this application and attachments are true and complete.

By checking "YES", the applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits, that includes FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S. Code Section 862, or, in the case of a non-individual applicant (e.g. corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits, that includes FCC benefits, pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. Section 1.2002(b).

47. DOES APPLICANT SO CERTIFY? ☒ YES ☐ NO

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT, (U.S. CODE, TITLE 18, SEC. 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SEC. 312(A)(1)) AND/OR FORFEITURE (U.S. CODE, TITLE 47, SEC. 503).

TYPED NAME: Behrooz Nourain

TITLE: Director of Engineering

SIGNATURE of individual, partner, officer of a governmental entity, officer or authorized employee of a corporation, or officer who is also a member of the association.

DATE:

5/22/95

FCC FORM 402 ENGINEERING DATA

SECTION III-TECHNICAL INFORMATION

TRANSMITTER SITE NAME : THIRD AVE , NY
TRANSMITTER COORDINATES : 40 47 3.0 N
73 56 54.0 W

20. FREQUENCY (MHz): SEE EXHIBIT #1
21. EMISSION: SEE EXHIBIT #1
22. TYPE OF MESSAGE SERVICE: VIDEO
23. INITIAL BASEBAND CHANNEL LOADING: 1
24. 10 YR PROJ. BASEBAND CHANNEL LOAD: 1

TRANSMITTER INFORMATION

25. OPERATING FREQ. TOL(%): 0.000500
26. ANTENNA GAIN (dBi): 44.7
27. EFFECTIVE RADIATED POWER (dBm): 19.7
28. BEAM WIDTH (DEGREES): 0.9
29. CENTER OF RADIATING ELEMENT (Ft): 392.0
30. POLARIZATION: H
31. AZIMUTH TO NEXT STATION OR PR1(Deg): 274.182

RECEIVER INFORMATION

RECEIVER SITE NAME : 1185 PARK AV, NY

32. CALL SIGN:
33. RECEIVING ANTENNA GAIN (dBi): 48.2
34. MEDIAN RECEIVED SIGNAL LEVEL (dBm): -42.5
35. LATITUDE N. (D-M-S): 40 47 4.0
36. LONGITUDE W. (D-M-S): 73 57 12.0
37. GROUND ELEVATION AMSL (Ft): 100.0
38. HT. TO RECEIVING ANTENNA (Ft): 192.0

SUPPLEMENTAL INFORMATION

TRANSMITTER INFORMATION

TRANSMITTER ANTENNA MAKE: CABLEWAVE SYSTEMS
TRANSMITTER ANTENNA MODEL: PA4-190
EQUIPMENT MAKE: HUGHES AIRCRAFT CO
EQUIPMENT MODEL: D0063QAMLMOT18120

RECEIVER INFORMATION

RECEIVING ANTENNA MAKE: CABLEWAVE SYSTEMS
RECEIVING ANTENNA MODEL: PA6-190

*** COMSEARCH ***